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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/788,587	02/27/2004	Timothy A. Otterlee	R122 1020.3	6842

7590 04/07/2006
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EXAMINER

VANAMAN, FRANK BENNETT

ART UNIT PAPER NUMBER

3618

DATE MAILED: 04/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/788,587	Applicant(s) OTTERLEE ET AL.	
	Examiner Frank Vanaman	Art Unit 3618	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 March 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Election/Restrictions

1. Applicant's election without traverse of Species III in the reply filed on March 27, 2006 is acknowledged.
2. Applicant has asserted that claims 1-22 read on the elected species.

Specification

3. The disclosure is objected to because of the following informalities: on page 4, line 13, it appears as though "our" should be - -or- -.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

5. Claims 1-4, 6, and 7 are rejected under 35 U.S.C. 102(b) or (e) as being anticipated by Johnson et al. (US 6,270,093, published 8/2001). Johnson et al. teach a shopping cart which may receive at least a portion of another cart, having a metallic tube frame (18, 22), a plurality of wheels (12, 14, 34) coupled to the frame, a basket ("B", 4) coupled to the frame, a molded plastic body (30, 46, 44) having substantially solid surfaces and coupled to the frame, covering at least a rear portion of the basket; a molded plastic seat (40, 42) coupled to the body and integrally formed with the body, defining a seat portion (e.g., 40, 42) and further defining thereabove a first nesting space, further providing therebelow a further nesting space (note particularly, figure 8); the first nesting space receiving a basket of a second cart (e.g., figure 16).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 5 is rejected under 35 U.S.C. 102(b) or (e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Johnson et al. As regards interpretation under 35 USC 102(b) or (e), while Johnson et al. does not refer to the body and seat portion as having explicitly been integrally formed using a rotomolding process, the product disclosed in the prior art is not distinguished in structure from the product resulting from the process steps. Alternatively, as regards interpretation under 35 USC 103(a), the use of a rotomolding process is very well known for the production of plastic parts having consistent physical characteristics for comparatively low cost, and as such, it would have been obvious to one of ordinary skill in the art at the time of the invention to have made the body and seat portion by a rotomolding process for the purpose of reducing the cost of its construction.

8. Claims 8-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Johnson et al. in view of Swanson (US 3,052,319). Johnson et al. teach a shopping cart which may receive at least a portion of another cart, having a metallic tube frame (18, 22), a plurality of wheels (12, 14, 34) coupled to the frame, a basket ("B", 4) coupled to the frame, a molded plastic body (30, 46, 44) having substantially solid surfaces and coupled to the frame, covering at least a rear portion of the basket; a molded plastic seat (40, 42) coupled to the body and integrally formed with the body, defining a seat portion (e.g., 40, 42) and further defining thereabove a first nesting space, further providing therebelow a further nesting space (note particularly, figure 8); the first nesting space receiving a basket of a second cart (e.g., figure 16). Johnson fails to teach the cart as comprising a second basket, one basket being provided above the other.

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Swanson teaches an old and well known cart construction wherein a shopping cart is formed with both an upper (48) and lower (46) basket, wherein the cart may be nested with another like cart (col. 2, lines 37-44). It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the cart taught by Johnson et al. (e.g., at figure 8) with a further vertically displaced basket (e.g., 46) as taught by Swanson, for the purpose of allowing a greater number of items to be accommodated on the cart.

As regards claims 14 and 19, while Johnson et al. As modified by Swanson does not refer to the body and seat portion as having explicitly been integrally formed using a rotomolding process, the product disclosed in the prior art is not distinguished in structure from the product resulting from the process steps. Alternatively the use of a rotomolding process is very well known for the production of plastic parts having consistent physical characteristics for comparatively low cost, and as such, it would have been obvious to one of ordinary skill in the art at the time of the invention to have made the body and seat portion by a rotomolding process for the purpose of reducing the cost of its construction.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Davidson et al. (US 5,203,578), Jones et al. (US 5,289,936), Davidson (US 5,435,582), and Simard (US 6,644,674) teach cart structures of pertinence.

10. Any inquiry specifically concerning this communication or earlier communications from the examiner should be directed to F. Vanaman whose telephone number is 571-272-6701.

Any inquiries of a general nature or relating to the status of this application may be made through either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

(cont'd., over)

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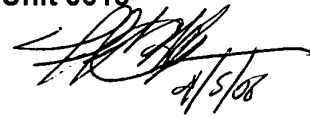
A response to this action should be mailed to:

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Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450,

Or faxed to:

PTO Central Fax: 571-273-8300

F. VANAMAN
Primary Examiner
Art Unit 3618

A handwritten signature in black ink, appearing to read 'F. Vanaman', with a date '4/5/08' written below it.